

## CCRB INVESTIGATIVE RECOMMENDATION

|   |  |                           |  |   |  |
|---|--|---------------------------|--|---|--|
| Investigator:<br>Liliana Manuel                   | Team:<br>Squad #3  | CCRB Case #:<br>201411295 | <input checked="" type="checkbox"/> Force              | <input checked="" type="checkbox"/> Discourt. | <input type="checkbox"/> U.S.              |
|   |  |                           | <input checked="" type="checkbox"/> Abuse              | <input type="checkbox"/> O.L.                 | <input checked="" type="checkbox"/> Injury |
| Incident Date(s)<br>Friday, 10/24/2014 5:00 PM    | Location of Incident:<br>Flatiron Plaza; Broadway and East 23rd Street | Precinct:<br>13           | 18 Mo. SOL<br>4/24/2016                                | EO SOL<br>4/24/2016                           |  |
| Date/Time CV Reported<br>Thu, 11/06/2014 11:28 AM | CV Reported At:<br>CCRB  | How CV Reported:<br>Mail  | Date/Time Received at CCRB<br>Thu, 11/06/2014 11:28 AM |   |  |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
|                    |      |              |
|                    |      |              |
|                    |      |              |
|                    |      |              |

| Witness(es) | Home Address |
|-------------|--------------|
|             |              |
|             |              |
|             |              |

| Subject Officer(s)  | Shield | TaxID  | Command |
|---------------------|--------|--------|---------|
| 1. POM Rafael Perez | 13462  | 943668 | 013 PCT |
| 2. POM Jose Bueno   | 04866  | 932376 | 013 PCT |
| 3. An officer       |        |        |         |

| Witness Officer(s)     | Shield No | Tax No | Cmd Name |
|------------------------|-----------|--------|----------|
| 1. POM Fernando Bisoño | 23628     | 950084 | 013 PCT  |

| Officer(s)          | Allegation   | Investigator Recommendation |
|---------------------|--|-----------------------------|
| A. POM Rafael Perez | Force: PO Rafael Perez used physical force against § 87(2)(b) and § 87(2)(b) |                             |
| B. POM Jose Bueno   | Force: PO Jose Bueno used physical force against § 87(2)(b)                  |                             |
| C. POM Rafael Perez | Abuse: PO Rafael Perez seized § 87(2)(b) and § 87(2)(b)'s property.          |                             |
| D. An officer       | Abuse: An officer damaged § 87(2)(b)'s property.                             |                             |
| E. An officer       | Discourtesy: An officer spoke rudely to § 87(2)(b)                           |                             |

### Case Summary

On October 24, 2014, Air France Airlines was holding a promotional event at the Flatiron Plaza on Broadway and East 23<sup>rd</sup> Street in Manhattan. At approximately 5:00 p.m., § 87(2)(b) and § 87(2)(b) who are representatives of People for the Ethical Treatment of Animals (PETA), staged a protest against Air France's practice of shipping primates. § 87(2)(b) got onto the stage erected by Air France for their promotion, took hold of the microphone, and began to make a statement. § 87(2)(b) and § 87(2)(b) stood in front of the stage holding signs and masks. PO Rafael Perez and PO Jose Bueno of the 13<sup>th</sup> Precinct mounted the stage. PO Perez pulled § 87(2)(b) away from the stage and guided her to PO Bueno (**Allegation A**). PO Bueno led § 87(2)(b) off of the stage and attempted to escort her through an opening in the metal barricades which formed a perimeter for the event. PO Bueno pushed § 87(2)(b) against the barricades, causing her to fall over the leg of the barricade and injure her legs (**Allegation B**). PO Perez jumped in front of the stage, removed § 87(2)(b) and § 87(2)(b)'s masks from their faces, and pulled them both away from the stage (**Allegations C**). An officer also crumpled § 87(2)(b)'s sign (**Allegation D**). PO Perez escorted § 87(2)(b) toward the exit of the event while PO Fernando Bisano of the 13<sup>th</sup> Precinct escorted § 87(2)(b) toward the exit. After the representatives were removed from the Air France area, an officer approached § 87(2)(b) and stated, "You know you're an idiot," (**Allegation E**). There were no arrests or summonses issued in regards to this incident.

This complaint was filed by attorney and counsel for PETA, § 87(2)(b) who did not witness the incident (encl. 3a). § 87(2)(b) was present for the majority of the interviews and telephone statements taken.

### Mediation, Civil and Criminal Histories

- Mediation was presented to § 87(2)(b) on December 2, 2014. § 87(2)(b) rejected mediation (encl. 5c). Mediation therefore was not presented to the other victims.
- As of December 11, 2014, neither § 87(2)(b) nor § 87(2)(b) had filed a Notice of Claim with the City of New York. As of February 13, 2015, neither § 87(2)(b) nor § 87(2)(b) had filed a Notice of Claim with the City of New York. (encl. 11e & 11k)
- A search of the Booking, Arraignment, and Disposition System revealed no prior arrests for § 87(2)(b) (encl. 8a).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### Officer and Civilian CCRB Histories (encl. 1a-2d)

- This is the first CCRB complaint involving § 87(2)(b) and § 87(2)(b). § 87(2)(b) filed one past complaint § 87(2)(b) [REDACTED]
- PO Bueno has been a member of the NYPD for 11 years and has had one previous CCRB allegation which was not substantiated. § 87(2)(g) [REDACTED]

- PO Perez has been a member of the NYPD for eight years and has had one previous CCRB allegation, which was not substantiated. § 87(2)(g)
- On March 5, 2015, the undersigned investigator contacted the 13<sup>th</sup> Precinct roll call liaison and was informed by SPA Carter that PO Bisono was on military leave and would not return to the NYPD for at least five to six months (encl. 9n).

## **Findings and Recommendations**

### **Allegations Not Pleaded**

**Discourtesy – An officer spoke rudely to individuals:** On February 6, 2015, § 87(2)(b) provided a telephone statement to the CCRB. § 87(2)(b) did not provide a sworn statement to the CCRB as he cancelled his CCRB interview and did not respond to subsequent contact attempts to reschedule. § 87(2)(b) and alleged that while standing outside of Air France event with § 87(2)(b) and § 87(2)(b) an officer approached them and stated something to the effect of, “That was really stupid of you.” § 87(2)(b) confirmed that the officer did not direct this statement to anyone in particular (enc. 5x). No other victims or witnesses described this alleged discourtesy in their statements. § 87(2)(g)

### **Recommendations**

**Allegation A: Officer Rafael Perez used physical force against** § 87(2)(b)

**and** § 87(2)(b)

**Allegation B: Officer Jose Bueno used physical force against** § 87(2)(b)

**Allegation C: Officer Rafael Perez seized** § 87(2)(b) **s and** § 87(2)(b) **s property.**

**Allegation D: An officer damaged** § 87(2)(b) **s property.**

§ 87(2)(b) provided a phone statement on November 17, 2014, and provided her sworn statement to the CCRB on December 2, 2014. § 87(2)(g)

During Air France’s promotion, § 87(2)(b) walked onto the stage designated for the Air France event and began to deliver her statement. An officer, identified via investigation as PO Perez, grabbed her by her coat and right arm, and pulled her toward the exit of the stage. He passed her to another officer, identified via the investigation as PO Bueno, who was also on stage. PO Bueno escorted § 87(2)(b) through the crowd and through an opening between two metal barricades through which she could exit. The opening between two barricades, however, was not big enough for § 87(2)(b) to fit through. PO Bueno tried to push § 87(2)(b) through the opening but instead pushed her against the barricades. § 87(2)(b) eventually fell over the leg of the barricade, through the opening, and onto the ground. § 87(2)(b) alleged in her phone statement that she landed on her back, but that her right knee also made contact with the ground. In her sworn statement she explained that she had fallen to her knees. PO Bueno then helped § 87(2)(b) back onto her feet. § 87(2)(b) did not sustain any injuries as a result of being pulled by PO Perez, but sustained bruises on her legs from being pushed against the barricade and from falling to the ground. The fall also aggravated a previous knee injury. § 87(2)(b) did not request or seek medical attention in regards to her injuries. She provided photos of her bruises, some of which appear to be linear shaped. She claimed that the linear bruises were sustained from the bars of the barricade. (encl. 5a-m)

§ 87(2)(b) provided a sworn statement on January 14, 2015, and explained that she and § 87(2)(b) stood in front of the stage holding signs and masks to their faces in protest of Air France. PO Perez removed § 87(2)(b)s mask and pulled her away from the event, holding

her upper arm. Her mask was never returned to her. As § 87(2)(b) was being led out, she observed PO Bueno and § 87(2)(b) approximately eight feet in front of her. § 87(2)(b) could see § 87(2)(b)'s hair tossing, which led her to think that PO Bueno was handling § 87(2)(b) roughly. When § 87(2)(b) and PO Bueno reached the barricades, § 87(2)(b) fell to the ground. § 87(2)(b) was unable to determine what caused § 87(2)(b) to fall due to heavy pedestrian traffic between her and § 87(2)(b). § 87(2)(b) did not sustain any injuries. After they had exited, § 87(2)(b) complained of being in pain to § 87(2)(b). § 87(2)(b) did not observe any injuries on § 87(2)(b) (encl. 5o-u)

§ 87(2)(b) provided a phone statement on January 15, 2015, and recounted that an officer, identified via the investigation as PO Perez, removed his mask and pulled him away from the stage. An officer also crumpled his sign, but did not take it from him. § 87(2)(b) did not know which officer did this and was unable to provide a description of the officer. An officer, identified via the investigation as PO Bisono, then escorted § 87(2)(b) out of the event, during which time § 87(2)(b) observed an officer pushing § 87(2)(b) "very roughly" about 12 to 15 feet ahead of him. He only observed their interaction for about ten seconds and did not see § 87(2)(b) fall. § 87(2)(b) did not sustain any injuries and did not observe any injuries on § 87(2)(b). § 87(2)(b) did, however, seem to be distraught after the event. § 87(2)(b) did not know what happened to his mask. (encl. 5v)

§ 87(2)(b) provided a phone statement on October 24, 2014, and recalled that after the protest, § 87(2)(b) told § 87(2)(b) that she had been pushed and had fallen. § 87(2)(b) did not witness § 87(2)(b) falling but observed redness on one of § 87(2)(b)'s legs. Later that night, § 87(2)(b) was with § 87(2)(b) who was having trouble walking because the fall had exacerbated a past knee injury. The following day, § 87(2)(b) sent § 87(2)(b) photos of the bruises on her leg and above her knee. (encl. 5n)

PO Bueno and PO Perez were interviewed at the CCRB on March 5, 2015 (encl. 6a-m). Both officers explained that on the date of the incident they were assigned to the Air France Detail, and were notified by Community Affairs and by officers from their command that representatives of PETA would be at the event. PO Bueno and PO Perez were instructed to keep PETA representatives from disrupting the event, and to remove any PETA representatives who did so. These instructions were repeated to PO Perez by Air France representatives when he arrived at the Flatiron Plaza. PO Bueno added that PETA was given their own designated area, west of the Air France stage and outside of the barricades, to carry out their demonstration and protest. There were approximately 300 to 400 people at the event and there was heavy pedestrian traffic particularly during the officers' interaction with the PETA members, as the event was coming to an end at that time.

PO Perez reviewed the video footage and confirmed that he was the first officer to approach § 87(2)(b) and § 87(2)(b) and remove § 87(2)(b)'s and § 87(2)(b)'s masks (encl. 5y). PO Perez attempted to pull the members away from the stage, as he was instructed to do. He was unsure if § 87(2)(b) or § 87(2)(b) were attempting to make statements, but still considered their actions to be disruptive of the event. The video footage shows that after parting from § 87(2)(b) and § 87(2)(b) PO Perez was still holding the masks. PO Perez could not recall what he did with the masks, but believed that he may have handed them to an Air France or PETA representative. He confirmed that he did not prepare vouchers for the masks.

Footage of the incident revealed that § 87(2)(b)'s sign was quite bent prior to officers approaching him. The footage also showed that after jumping in front of the stage, PO Perez immediately removed § 87(2)(b)'s and § 87(2)(b)'s masks. While PO Perez's back was facing the camera for a moment, it is clear that both of his hands were occupied, with one mask in each hand, leaving little room to damage § 87(2)(b).



Pod: \_\_\_\_\_

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|---------------|-----------|-------|-------|
| Investigator: | _____     | _____ | _____ |
|               | Signature | Print | Date  |

|             |                 |       |       |
|-------------|-----------------|-------|-------|
| Supervisor: | _____           | _____ | _____ |
|             | Title/Signature | Print | Date  |

|           |                 |       |       |
|-----------|-----------------|-------|-------|
| Reviewer: | _____           | _____ | _____ |
|           | Title/Signature | Print | Date  |

|           |                 |       |       |
|-----------|-----------------|-------|-------|
| Reviewer: | _____           | _____ | _____ |
|           | Title/Signature | Print | Date  |